

VIA FACSIMILE (410-358-1236) & FEDEX

October 12, 2006

Linda Cole, Chief
Long Term Care Policy & Planning
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Comments on Draft Update of the
State Health Plan for Facilities & Services:
Nursing Home, Home Health Agency,
and Hospice Services (the "Draft Chapter")

Dear Ms. Cole:

On behalf of Adventist Senior Living Services ("ASLS"), a subsidiary of Adventist HealthCare, Inc., and an owner and operator of comprehensive care facilities ("CCF"), we are offering these comments on the above-referenced Draft Chapter that was released for informal public comment on September 12, 2006. ASLS appreciates the opportunity to provide these comments to the Maryland Health Care Commission ("Commission").

As we reviewed the Draft Chapter, we were pleased to note the Commission's recognition that the physical facilities in which CCFs are housed are generally aging, and we are coming to a point where CCFs will be undertaking renovation, expansion and/or replacement projects. It is gratifying that the Commission recognizes the need for CCFs

to turn their attention to such capital projects, so that improved and expanded quality services may be fostered to meet identified community needs.

Though the need for improvement of CCF physical facilities has been identified, we believe that a number of the proposed provisions of the Draft Chapter are inconsistent with the intent to foster such improvements, and in fact may thwart that effort. It is within this context that we offer the following comments.

Bed Need

1. Notwithstanding that the Draft Chapter contains need projections, § .05B(1)(a) requires an applicant for additional new beds to provide a significant additional amount of information to prove the same need that the Commission has already demonstrated in the Draft Chapter's methodology. Where, as here, the Draft Chapter shows bed need, an applicant should not be required to provide redundant and unnecessary information.

2. Section .05B(1)(b) requires that an applicant with an existing facility it seeks to relocate to a new site must demonstrate continuing need for CCF beds to be relocated to a new site, even though the CCF beds to be relocated are already in the Commission's inventory of beds. This is a departure from Commission precedent and practice, and imposes a significant burden on applicants that may simply be seeking to build a replacement facility. Some renovation projects cannot occur on a current site due to zoning, size of the land and the inability to close substantial portions as might be required to accomplish needed renovations. Facilities needing to replace existing facilities at a new location must be able to plan for continuation of their services, both internally and in working with financing sources. Making the continued availability of current beds uncertain in the proposed manner substantially risks facilities not being replaced.

Renovation, Expansion and/or Replacement Projects

3. In § .05A(3)(d), an applicant for a renovation, replacement or expansion project must make a number of demonstrations regarding community-based services, including "that it has made significant progress in discharging nursing home residents to alternative community programs" as measured by a number of indicies. A successful demonstration in this regard, however, undermines the CCF's ability to rely on its history of financial and operational success by requiring it to anticipate the need to demonstrate a historical reduction of residents and revenues, in direct contradiction to what is ordinarily

required to support a project to improve a facility. Facilities planning for significant capital improvements will be unable to do so if one of their mandates is to show a significant, historical diminution of services. It is one thing to require facilities to engage in discharge planning and be open to community-based alternatives. It is another for them to be denied a CON unless it can be shown that over time leading up to the application they have decreased services to residents. A facility's ability to justify a major capital project to renovate, expand and/or relocate a facility should not be impaired by a successful demonstration that residents have been directed to community-based services appropriately.

4. The "waiver bed" rules need to be reevaluated. New proposed language would allow waiver beds to be approved only if there exists "licensable" space for those beds. It is not clear what is meant by this term, and whether the intention is to allow waiver bed approval only if existing physical space is capable of being used for licensed beds without any renovation, construction or capital expenditure. Waiver beds should be permitted if a CCF has existing space for the beds, if the facility adds space to accommodate such beds as part of a CON application, or as part of an overall capital project that is otherwise exempt from CON requirements because it is less than the threshold for capital expenditures. Also, where a facility is entitled to waiver beds, it should be entitled to add them incrementally over a given two-year period.

5. Some CCF renovation projects do not involve patient rooms directly. Proposed changes in § .05A(5)(b) would appear to require physical facility changes that would involve patient rooms and the toilet facilities associated with those rooms, even where the project does not involve those areas. We believe these new provisions should only apply where the proposed renovation project involves patient rooms.

6. Though there are many commonalities among CCFs, each facility is unique in some way, and its plans for upgrading may involve unusual or unique solutions appropriate only to the involved facility. Section .05A(7)(b) requires a "citation from the long term care literature" that would support the proposed facility changes. Where the literature is used to develop a design, the Commission should be provided this information, rather than stating this as a requirement. As drafted, this may discourage innovative and appropriate designs to meet needs of a particular facility. Appropriate innovation should be encouraged, rather than limiting a facility only to solutions that others may have utilized in different environments as documented in the literature.

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This Chapter is a very important document as it recognizes that the health care community will be faced with important choices involving the design and upgrade of long term care facilities and the enhancement of a continuum of care. We support those efforts and urge the Commission to adopt policies that encourage CCFs to enhance the design of their facilities and quality of care they offer.

Sincerely,



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